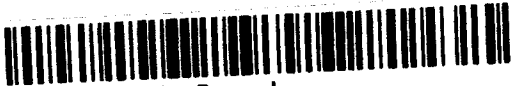


RECORDING REQUESTED BY:

Andco Farms Incorporated  
3930 26<sup>th</sup> Avenue  
Sacramento, California 95820

WHEN RECORDED, MAIL TO:

Department of Toxic Substances Control  
8800 Cal Center Drive  
Sacramento, California 95826-3200  
Attn: James L. Tjosvold, P.E., Chief  
Northern California-Central Cleanup  
Operations Branch  
DTSC Project Site Code 100163

  
Sacramento County Recorder  
Frederick B. Garcia, Clerk/Recorder  
BOOK **20081216** PAGE **0724**

Check Number 150  
Tuesday, DEC 16, 2008 11:23:39 AM  
Ttl Pd \$47.00 Nbr-000567238

AMH/68/1-13

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SPACE ABOVE THIS LINE RESERVED FOR RECORDER'S USE

## COVENANT TO RESTRICT USE OF PROPERTY

### ENVIRONMENTAL RESTRICTION

Re: Lot 12, Block 20, as shown on the Plat of North Sacramento Subdivision No. 9, recorded in Book 15 of Maps, Map No. 2 of Sacramento County; Assessor Parcel Number 275-0112-017;  
2170 Acoma Street, Sacramento, California 95815

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This Covenant and Agreement ("Covenant") is made by and between Andco Farms incorporated (the "Covenantors"), the current owners of property situated in Sacramento, County of Sacramento, State of California, described as Lot 12, Block 20, as shown on the Plat of North Sacramento Subdivision No. 9, recorded in Book 15 of Maps, Map No. 2 of Sacramento County (the "Property"), and the Department of Toxic Substances Control (the "Department"). Pursuant to Civil Code section 1471, the Department has determined that this Covenant is reasonably necessary to protect present or future human health or safety or the environment as a result of the presence on the land of

hazardous materials as defined in Health and Safety Code section 25260. The Covenantors and the Department, collectively referred to as the "Parties", hereby agree that the use of the Property be restricted as set forth in this Covenant.

ARTICLE I  
STATEMENT OF FACTS

1.01. The Property, totaling approximately one-third acre, is located in the area now generally bounded by Arden Way to the north, Acoma Street to the west, El Monte to the south, and Barstow Street to the east, County of Sacramento, State of California. This property is more specifically described as Sacramento County Assessor's Parcel No. 275-0112-017, depicted in Exhibit "A", attached hereto and incorporated herein by this reference.

1.02. The Property was remediated under the supervision and authority of the Department under a Remedial Action Plan pursuant to Chapter 6.8 of Division 20 of the Health and Safety Code. Because hazardous substances, as defined in Health and Safety Code section 25316, which are also hazardous wastes as defined in Health and Safety Code section 25117 and hazardous materials as defined in Health and Safety Code section 25260, including metals and cyanides, remain in the soil in and under portions of the Property, the Remedial Action Plan provides that a deed restriction be required as part of the site remediation. The Department circulated the Remedial Action Plan, which contains a Final Health Assessment, together with a draft negative declaration pursuant to the California Environmental Quality Act, Public Resources Code section 21000 et seq., for public review and comment. The Remedial Action Plan and the negative declaration were approved by the Department on June 13, 1988. Remediation included excavating contaminated soil to a depth of approximately one foot and backfilling these areas with a clean soil "Cap" (Exhibit B, area identified as Areas I, II, and III). The Cap is located on the north and east side of the building. The area on the north side of the building is approximately 120 feet long and 10 feet wide. The area on the east side of the building is approximately 55 feet long and 35 feet wide. Both areas extend from the sides of the building to the property line. The confirmed clean backfill was analyzed for Title 22 metals, volatile organics (Method 8270) and semi-volatile organics (Method 8240).

1.03. As detailed in the Remedial Action Certification Form approved by the Department on June 30, 1988, one out of nine confirmation samples collected from one foot beneath ground

surface contained hazardous wastes, hazardous materials and/or hazardous substances, as defined in Health and Safety Code sections 25117, 25260 and 25316, which included the following contaminant of concern at or above the associated site cleanup level for chromium: chromium (2,500 parts per million (ppm)). The Department determined that this one confirmation sample (chromium at 6,200 ppm) exceeded the site cleanup level. The Department identified this sample as representing an area of less than 15 square feet and concluded that further excavation was not warranted based upon this result. Also, as detailed in the Final Remedial Action Plan approved by the Department in June, 1998, a soil sample collected from the south side of the Property on November 3, 1997, contained chromium at 9,600 ppm that also exceeded the chromium cleanup level. The Property, as remediated, and subject to the restrictions of this Covenant, does not present an unacceptable threat to human safety or the environment, if limited to commercial and industrial use.

## ARTICLE II DEFINITIONS

2.01. Department. "Department" means the California Department of Toxic Substances Control and includes its successor agencies, if any.

2.02. Environmental Restrictions. "Environmental Restrictions" means all protective provisions, covenants, restrictions, prohibitions, and terms and conditions as set forth in any section of this Covenant.

2.03. Improvements. "Improvements" means, but is not limited in meaning to, buildings, structures, roads, driveways, improved parking areas, or utilities installations.

2.04. Lease. "Lease" means lease, rental agreement, or any other document that creates a right to use or occupy any portion of the Property.

2.05. Occupant. "Occupant" means Owners and any person or entity entitled by ownership, leasehold, or other legal relationship to the right to occupy any portion of the Property.

2.06. Owner. "Owner" means the Covenantor, its successors in interest, and their successors in interest, including heirs and assigns, who at any time hold title to all or any portion of the Property.

### ARTICLE III GENERAL PROVISIONS

3.01. Runs with the Land. This Covenant sets forth Environmental Restrictions, that apply to and encumber the Property and every portion thereof shall be improved, held, used, occupied, leased, sold, hypothecated, encumbered, and/or conveyed. This Covenant: (a) runs with the land pursuant to Health and Safety Code section 25355.5 and Civil Code section 1471; (b) inures to the benefit of and passes with each and every portion of the Property; (c) is for the benefit of, and is enforceable by the Department; and (d) is imposed upon the entire Property unless expressly stated as applicable only to a specific portion thereof.

3.02. Binding upon Owners/Occupants. Pursuant to Health and Safety Code section 25355.5(a)(1)(C), this Covenant binds all owners of the Property, their heirs, successors, and assignees, and the agents, employees, and lessees of the owners, heirs, successors, and assignees. Pursuant to Civil Code section 1471, all successive owners of the Property are expressly bound hereby for the benefit of the Department.

3.03. Written Notice of the Presence of Hazardous Substances. Prior to the sale, lease, or sublease of the Property, or any portion thereof, the owner, lessor, or sublessor shall give the buyer, lessee, or sublessee notice that hazardous substances are located on or beneath the Property.

3.04. Incorporation into Deeds and Leases. This Covenant and its Environmental Restrictions shall be incorporated by reference in each and every deed and Lease for any portion of the Property.

3.05. Conveyance of Property. The Owner shall provide written notice to the Department not later than thirty (30) days after any conveyance of any ownership interest in the Property (excluding mortgages, liens, Leases, and other non-possessory encumbrances). The written notice shall include the name and mailing address of the new owner of the Property and shall reference the

DTSC Project Site Code 100163. The notice shall also include the Assessor's Parcel Number(s) (APN(s)) noted on page one of this Covenant. If the new owner's property has been assigned a different APN, each such APN that covers the Property must be provided. The Department shall not, by reason of this Covenant, have authority to approve, disapprove, or otherwise affect proposed conveyance, except as otherwise provided by law, by administrative order, or by a specific provision of this Covenant.

3.06. Costs of Administering the Deed Restriction to be paid by Owner. The Department has already incurred and will in the future incur costs associated with the administration of this Covenant. Therefore, the Covenantor hereby covenants for himself and all subsequent owners that the Owner shall pay the Department's costs in administering this Covenant.

#### ARTICLE IV RESTRICTIONS

4.01. Prohibited Uses. The Property shall not be used for any of the following purposes:

- (a) A residence, including any mobile home or factory built housing, constructed or installed for use as residential human habitation.
- (b) A hospital for humans.
- (c) A public or private school for persons under 21 years of age.
- (d) A day care center for children.

4.02. Soil Management

- (a) No activities that will disturb the soil (e.g., excavation, grading, removal, trenching, filling, earth movement or mining) shall be allowed on the Property without a Soil Management Plan and a Health and Safety Plan approved by the Department.
- (b) Any contaminated soils brought to the surface by grading, excavation, trenching or backfilling shall be managed in accordance with all applicable provisions of state and federal law.
- (c) The Owner shall provide the Department written notice at least fourteen (14) days prior to any building, filling, grading, mining or excavating in the Property.

4.03. Prohibited Activities. The following activities shall not be conducted at the Property:

- (a) Raising of food (cattle, food crops).
- (b) Drilling for water, oil, or gas without prior written approval by the Department.
- (c) Use of groundwater as drinking water or other beneficial uses without compliance with Regional Water Quality Control Board requirements.

4.04. Non-Interference with Cap.

Covenantors agree:

- (a) Activities that may disturb the Cap (e.g. excavation, grading, removal, trenching, filling, earth movement, or mining) shall not be permitted on the Property without prior review and approval by the Department.
- (b) All uses and development of the Property shall preserve the integrity of the Cap.
- (c) The Cap shall not be altered without written approval by the Department.
- (d) If the concrete floor inside the plating shop is removed or replaced, the Owner of the site must collect samples of the underlying soil, analyze the samples for metals and cyanide, and submit the results to the Department.
- (e) Covenantors shall notify the Department of each of the following: (i) the type, cause, location and date of any damage to the Cap and (ii) the type and date of repair of such damage. Notification to the Department shall be made as provided below within ten (10) working days of both the discovery of any such disturbance and the completion of any repairs. Timely and accurate notification by any Owner or Occupant shall satisfy this requirement on behalf of all other Owners and Occupants.

4.05. Access for Department. The Department shall have reasonable right of entry and access to the Property for inspection, monitoring, and other activities consistent with the purposes of this Covenant as deemed necessary by the Department in order to protect the public health or safety, or the environment.

ARTICLE V  
ENFORCEMENT

5.01. Enforcement. Failure of the Owner or Occupant to comply with this Covenant shall be grounds for the Department to require modification or removal of any Improvements constructed or placed upon any portion of the Property in violation of this Covenant. Violation of this Covenant, including but not limited to, failure to submit, or the submission of any false statement, record or report to the Department, shall be grounds for the Department to pursue administrative, civil or criminal actions.

ARTICLE VI  
VARIANCE, TERMINATION, AND TERM

6.01. Variance. Covenantor, or any other aggrieved person, may apply to the Department for a written variance from the provisions of this Covenant. Such application shall be made in accordance with Health and Safety Code section 25233.

6.02 Termination. Owner, or any other aggrieved person, may apply to the Department for a termination of one or more terms of this Covenant as they apply to all or any portion of the Property. Such application shall be made in accordance with Health and Safety Code section 25234.

6.03 Term. Unless ended in accordance with the Termination paragraph above, by law, or by the Department in the exercise of its discretion, this Covenant shall continue in effect in perpetuity.

ARTICLE VII  
MISCELLANEOUS

7.01. No Dedication Intended. Nothing set forth in this Covenant shall be construed to be a gift or dedication, or offer of a gift or dedication, of the Property, or any portion thereof to the general public or anyone else for any purpose whatsoever.

7.02. Department References. All references to the Department include successor agencies/departments or other successor entity.

7.03. Recordation. The Covenantors shall record this Covenant, with all referenced Exhibits, in the County of Sacramento within ten (10) days of the Covenantor's receipt of a fully executed original.

7.04. Notices. Whenever any person gives or serves any Notice ("Notice" as used herein includes any demand or other communication with respect to this Covenant), each such Notice shall be in writing and shall be deemed effective: (1) when delivered, if personally delivered to the person being served or to an officer of a corporate party being served; or (2) three (3) business days after deposit in the mail, if mailed by United States mail, postage paid, certified, return receipt requested:

To Current Owner:

Andco Farms Incorporated

Attn: Larry Odbert

3930 26<sup>th</sup> Avenue

Sacramento, California 95820

To Department:

James L. Tjosvold, P.E., Chief

Northern California-Central Cleanup Operations Branch

Attn: Jerry Lile

Department of Toxic Substances Control

8800 Cal Center Drive

Sacramento, California 95826-3200

Any party may change its address or the individual to whose attention a Notice is to be sent by giving written Notice in compliance with this paragraph.

7.05. Partial Invalidity. If any portion of this Covenant or its terms are determined by a court of competent jurisdiction to be invalid for any reason, the surviving portions of this Covenant shall remain in full force and effect as if such portion found invalid had not been included herein.

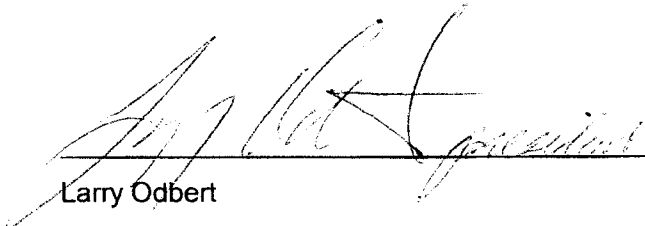


7.06 Statutory References. All statutory references include successor provisions.

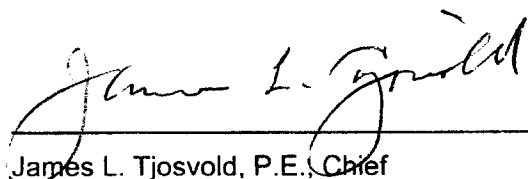
7.07 Inspection and Reporting Requirements. The Owner shall conduct an annual inspection and submit an annual report to the Department by January 15<sup>th</sup> of each year. The annual report, filed by the current Owner, shall describe how all the Environmental Restrictions in this Covenant are being met.

IN WITNESS WHEREOF, the Parties execute this Covenant.

Covenantor: Andco Farms Incorporated

 \_\_\_\_\_ Date: 6-18-08  
Larry Odbert

Department of Toxic Substances Control:

 \_\_\_\_\_ Date: 6/26/08  
James L. Tjosvold, P.E., Chief  
Northern California-Central Cleanup Operations Branch  
Site Mitigation and Brownfields Reuse Program

# California All-Purpose Acknowledgment

State of California

County of

Sacramento

} ss.

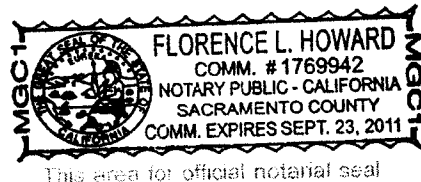
On June 26, 2008 before me, Florence L. Howard, Notary Public,  
personally appeared James L. Tjosvold

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Florence L. Howard  
Signature of Notary Public



This area for official notarial seal

(Optional) My commission expires on: \_\_\_\_\_

(Optional) Phone No.: \_\_\_\_\_

## ACKNOWLEDGMENT

State of California

County of SACRAMENTO

On 6/18/08 before me, Roxane Balison, Notary  
(insert name and title of the officer)

personally appeared LARRY ADVERT  
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are  
subscribed to the within instrument and acknowledged to me that he/she/they executed the same in  
his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the  
person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

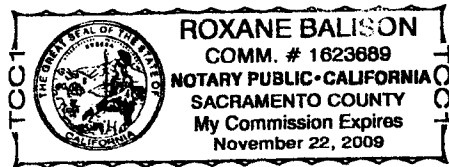
I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing  
paragraph is true and correct.

WITNESS my hand and official seal.

Signature

Roxane Balison

(Seal)

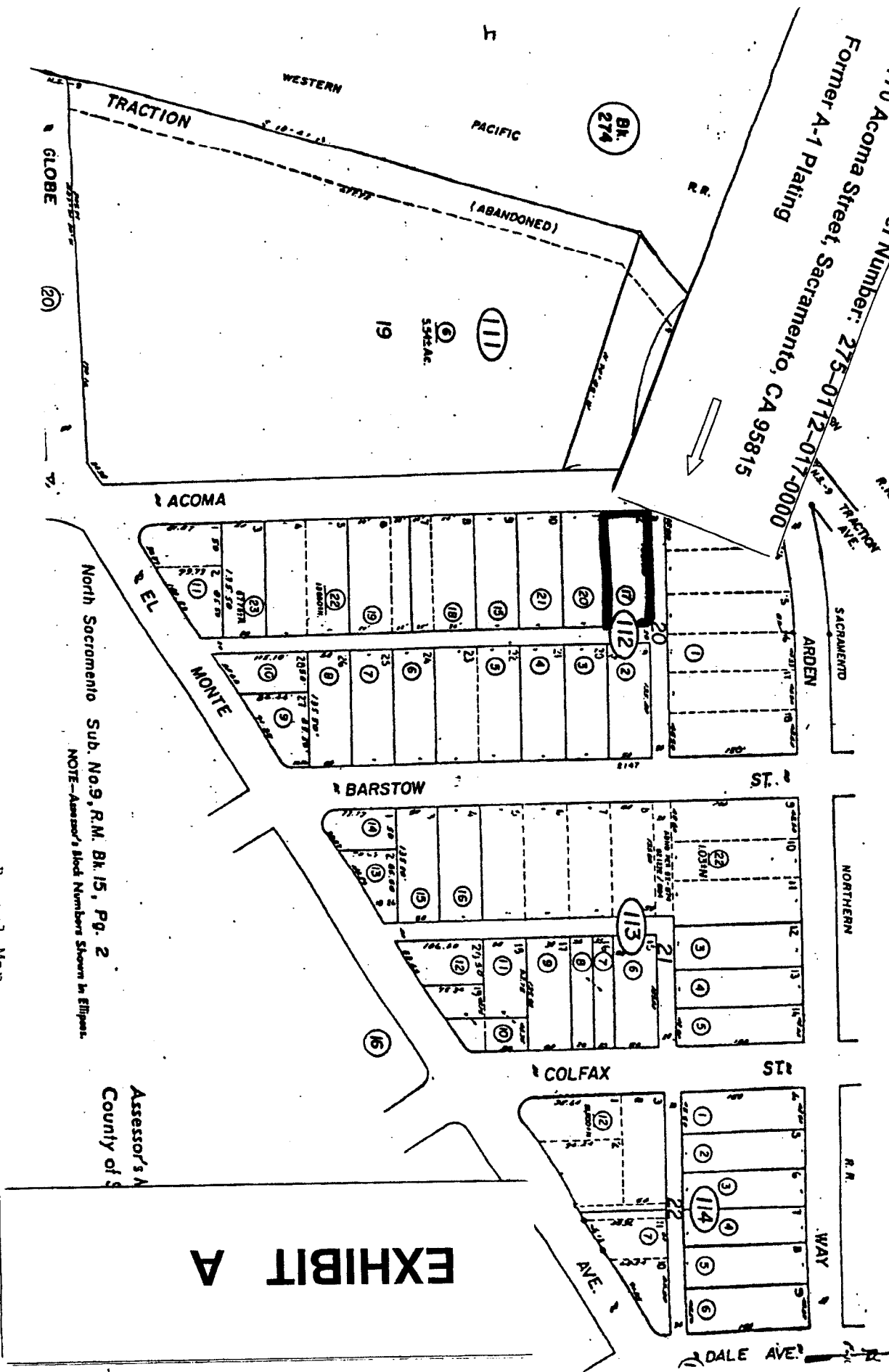


POR. SEC. 14, RANCHO DEL PASO

Tom Area Code

275-11

Assessor Parcel Number: 275-0112-017-0000  
Former A-1 Plating  
2170 Acoma Street, Sacramento, CA 95815





0 10 20  
SCALE  
FEET

LEGEND

— x — FENCE LINE

▨ - EXCAVATION AREA

x — x — GRAVELLED SERVICE ROAD

SEWER  
MANHOLE

ACOMA STREET

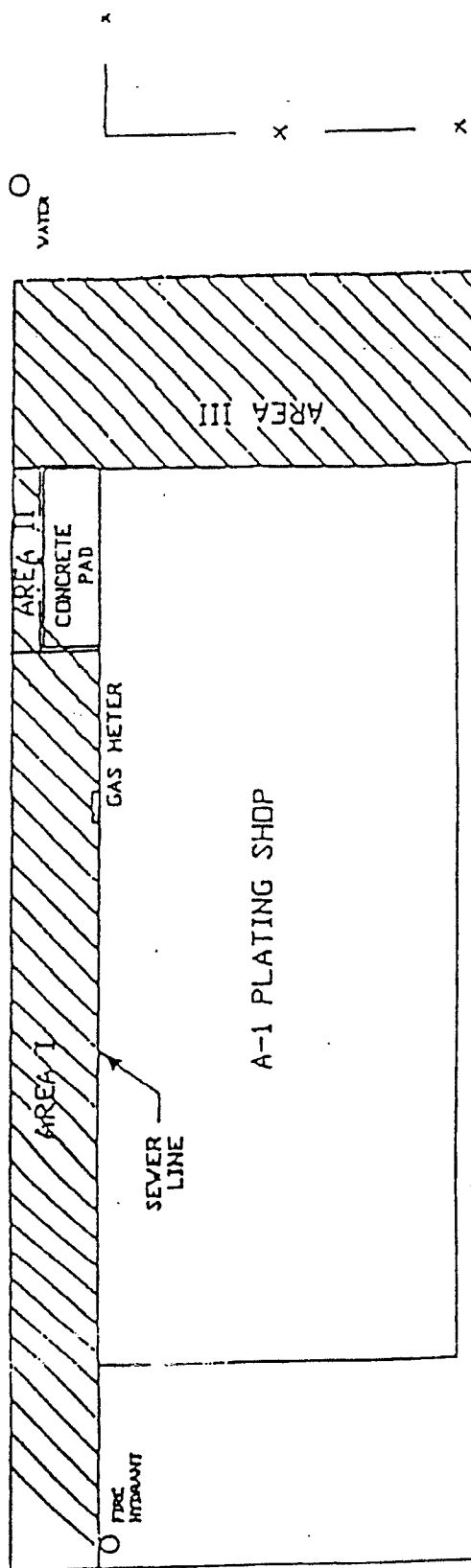


EXHIBIT B

SITE DIAGRAM  
A-1 PLATING SITE, SACRAMENTO, CALIFORNIA